

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Seth Ullman	Team: Team # 1	CCRB Case #: 200905780	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/14/2009 5:45 AM	Location of Incident: § 87(2)(b) and the 77th Precinct stationhouse		Precinct: 88	18 Mo. SOL 10/14/2010	EO SOL 10/14/2010
Date/Time CV Reported Thu, 04/16/2009 7:53 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 04/16/2009 7:53 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Edwin Espinal	09609	934831	077 PCT
2. POM Eddy Linares	20761	933933	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edwin Espinal	Abuse: PO Edwin Espinal entered and searched § 87(2)(b)	§ 87(2)(b)
B.POM Eddy Linares	Abuse: PO Eddy Linares did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
C.POM Edwin Espinal	Off. Language: PO Edwin Espinal made remarks to § 87(2)(b) based upon her sex.	§ 87(2)(b)
D.POM Edwin Espinal	Force: PO Edwin Espinal tightly handcuffed § 87(2)(b)	§ 87(2)(b)
E.POM Edwin Espinal	Force: PO Edwin Espinal used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On April 16, 2009, § 87(2)(b) filed a complaint on the call processing system. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

On April 14, 2009, at approximately 5:45 AM, a search warrant was served at § 87(2)(b) in Brooklyn. The following allegations resulted from the officers' actions.

- **Allegation A: PO Edwin Espinal entered and searched** § 87(2)(b)
- **Allegation B: PO Eddy Linares did not obtain medical treatment for** § 87(2)(b)
- **Allegation C: PO Edwin Espinal made remarks to** § 87(2)(b) **based upon her sex.**
- **Allegation D: PO Edwin Espinal tightly handcuffed** § 87(2)(b)
- **Allegation E: PO Edwin Espinal used physical force against** § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b)
- § 87(2)(b)

- Testimony

§ 87(2)(b) was interviewed at the CCRB on May 28, 2009 (encl. 7a – 7h). At approximately 5:45 AM on April 14, 2009 § 87(2)(b) was in her apartment, located at § 87(2)(b) in Brooklyn. Multiple officers broke through the lock of the door to the apartment and rushed into the bedroom where she was sleeping. She noted two officers in particular, each wearing plain clothes. She described one unidentified officer as a heavyset, Hispanic male with a square spiky haircut, aged 36-37 years old, standing at 6'1", overweight at 300 lbs. She described the second, identified as PO Linares, as a tall at 5'11"-6'0", Hispanic male with a slender build at 180 lbs, 33-34 years of age, a receding hairline, and a teardrop tattoo near his left eye.

An officer asked if they had anything in the apartment, and § 87(2)(b) admitted to having two nickel bags of marijuana in her pants pocket. The officers took the bags out of her pocket. § 87(2)(b) told PO Linares that she has diabetes and asked if she could take an insulin shot. He said no, and that that he would bring her insulin down to the stationhouse and that she could take it when she got there. She and other occupants, including § 87(2)(b) were taken to the precinct.

At the stationhouse, § 87(2)(b) asked PO Linares for her insulin, but was informed that it was not brought to the stationhouse. She arrived at the 77th Precinct stationhouse at approximately 7:30 AM and were taken before the desk sergeant. She was put in a cell and at approximately 11:30 AM § 87(2)(b) asked an officer, who was with PO Linares, what she was getting charged

with. This officer, identified by the investigation as PO Espinal, was described as a dark-skinned Hispanic male, 5'6"-5'7" tall, in his mid to late 20s, with a muscular build, blue eyes, and a tattoo on one of his forearms. PO Espinal said that she was being charged with possession of marijuana. At some point, PO Espinal called § 87(2)(b) a "fat bitch." PO Linares then said to § 87(2)(b) "Why didn't you tell me you had guns in the house?" § 87(2)(b) said, "Why didn't you tell me that I had guns in the house? If there are guns there, you must have put them there because we didn't have any weapons at my house." § 87(2)(b) said that she was loud when she said this. At some point, PO Espinal said, "You can't be disrespectful to my captain," which is why § 87(2)(b) thought that PO Linares was a captain. PO Espinal then opened the cell door, turned § 87(2)(b) around and put handcuffs on her. § 87(2)(b) told PO Espinal that the handcuffs were too tight, and he dragged her out of the cell. § 87(2)(b) asked why she was being handcuffed and said that she did not do anything wrong as the officer was removing her from the cell. PO Espinal told her that she "had a nasty mouth." § 87(2)(b) asked, "I didn't say anything, why are you taking me out?" PO Espinal tightened the handcuffs at this point. PO Espinal continued to shove § 87(2)(b) away from this cell and § 87(2)(b) resisted PO Espinal's forward motion and stopped walking. She did not get aggressive or try to attack him. PO Espinal was attempting to take her to line up against a wall to leave the precinct. § 87(2)(b) said, "These fucking cuffs are too tight, get 'em off me! What the fuck did you do that for?" PO Espinal then threw her against the wall with all of his force that was approximately four feet from the cell and she hit her head and shoulder against the wall. § 87(2)(b) had a headache afterwards, but no injuries. No other civilians were lined up at this time.

PO Espinal put § 87(2)(b) in a single cell and at some point § 87(2)(b) asked PO Linares about her insulin, and he said that he had forgotten about it. She stayed in this cell until she went to Central Booking. § 87(2)(b) told an officer that she needed to eat and that she needed her medicine and the officer refused.

§ 87(2)(b) was taken to Central Booking at approximately 6:30 PM. While she was there, § 87(2)(b) went to see an EMT. This EMT made small talk with § 87(2)(b) and asked if they had any medical problems. § 87(2)(b) told him that she was a diabetic, but that she was okay and just wanted to see the judge so that she could leave. § 87(2)(b) signed a form saying that she did not want medical treatment. The two officers who escorted § 87(2)(b) to Central Booking then took her back to the stationhouse for the night at approximately 10:30 PM and she did not see a judge.

Once she was back at the stationhouse, § 87(2)(b) was put in an empty holding cell. She was taken to Central Booking the following evening, where she saw a judge at approximately 6:30 or 7:00 PM, and left Central Booking at approximately 8:30 PM. She took a cab home.

Complainant: § 87(2)(b)

§ 87(2)(b) was only interviewed by phone § 87(2)(g)

(encl. 5a – 5b, 6a). He did not witness any of § 87(2)(b)'s allegations. § 87(2)(g)

§ 87(2)(b) A sworn statement was attempted, but he failed to appear for multiple scheduled appointments.

Witness Statements:

No statements were obtained from the additional individuals arrested in § 87(2)(b), as they did not witness any of the allegations, save that of the entry. § 87(2)(g)

NYPD Statements:

Subject Officer: PO EDWIN ESPINAL

- PO Espinal, born § 87(2)(b), is a 5'10", 165 lb Hispanic male with eyes self-reported as grey and black hair.
- On April 14, 2009, PO Espinal worked between 5:00 AM and 12:05 AM the following day. He was dressed in plain clothes, assigned to SNEU, assisting in a search warrant. He was assigned as the arresting officer.

- Memo Book (encl. 9l – 9m)

PO Espinal executed a search warrant, arresting five at 6:30 AM, noting the five arrested. They arrived at the stationhouse at 9:00 AM. He vouchered evidence in the form of marijuana. At 12:15 PM he returned to the 77th Precinct stationhouse and ended his tour at 12:05 AM the next day.

-Other Documents

PO Espinal completed the arrest paperwork for each of the arrested individuals (encl. 9a – 9k), noting that their arrests were for possession of marijuana found and vouchered pursuant to a search warrant. On § 87(2)(b)'s prisoner pedigree card, it notes that her physical and mental condition appears normal.

- CCRB Testimony

PO Espinal was interviewed on March 18, 2010 (encl 9n – 9o) PO Espinal served a warrant and five individuals were arrested. ESU entered and secured the location. He assumed that he processed their arrests as their arresting officer, but did not specifically recall doing so. He recalled no aspect of the incident, despite being shown a photograph of § 87(2)(b) and informed of multiple details of the alleged incident.

PO Espinal stated that he had no tattoos on his arms and rolled up his sleeves such that the investigator confirmed that this was true. He did not believe that anyone on his team on that date had tattoos. After he processed the arrests he brought the paperwork to the DA, but not the prisoners. He stated that his team generally transfers the prisoners to whoever happens to be present at the 77th Precinct stationhouse after their scheduled tour is completed.

Subject Officer: PO EDDY LINARES

- PO Linares, born § 87(2)(b), is a 185 lb, 6'0" Hispanic male with black hair and brown eyes. He has a birthmark in the shape of a teardrop underneath his left eye (encl. 11n).
- On April 14, 2009, PO Linares of the 77th Precinct was working as part of a warrant squad, on duty, in plain clothes. He worked 4:34 AM to 1:10 PM. He was assigned as the 77 Field Intelligence Officer, who prepares search warrants. He was working with Sgt. Smith of the 84th (or possibly the 88th) Precinct and the 77 SNEU team. He was assigned to a marked vehicle, though he could not recall the number.

- Memo Book

PO Linares participated in a search warrant at § 87(2)(b) (encl. 10a – 10c).

- CCRB Testimony

PO Linares was interviewed on March 15, 2010 (encl. 10d). PO Linares acquired the warrant for § 87(2)(b) ESU executed the warrant. He did not recall who the supervising officer was. He suspected that they were from the 77th Precinct, but was not certain. PO Linares stayed

downstairs to safeguard their vehicle as the warrant was executed. ESU returned, took possession of the truck, and PO Linares went to the apartment. He did not interact with any of the civilians on the scene of the incident. He did not recall how many civilians were arrested in the apartment. He stood around the apartment. PO Linares returned to the stationhouse where the civilians went to be processed. He did not assist in processing them. He did not interact with the civilians in any capacity at the precinct. PO Linares did not know who processed the prisoners on that date.

The case file photograph of § 87(2)(b) was presented to PO Linares, but he did not recognize her. He did not recall if he was ever informed of anything that happened with any of the prisoners by any other officer. He had no recollection whether he heard any of the civilians requesting medical attention. He did not believe that he worked past 1:10 PM.

NYPD Documents

- A warrant provided was issued pursuant to evidence presented by PO Espinal (encl. 11a). The command log listed § 87(2)(b)'s condition as apparently normal (encl. b). The photos and associated physical descriptions (encl. 11l – 11y) of the personnel listed in the tactical plan for the warrant execution (encl. 11c) did not indicate that any Hispanic male officer had blue eyes, save PO Jose Camacho, a light-skinned, 5'11", 230 lb man with a double chin, a moustache and a partially bald head (encl. 11b).

Arrest for Incident and Disposition

- § 87(2)(b), § 87(2)(a) 160.50

Civilians' Criminal History

- As of March 30, 2010, Office of Court Administration records reveal no additional criminal convictions for § 87(2)(b)

Civilians' CCRB History

- This is the first CCRB complaint filed by both § 87(2)(b) and by § 87(2)(b) (3a – 3b).

Subject Officers CCRB History

- PO Espinal has been a member of the service for five years and PO Linares has been a member of the service for six years and there are no substantiated CCRB allegations against them (encl. 1a, 2a – 2b).

Conclusion

Identification of Subject Officers

- PO Linares matches the description provided by § 87(2)(b) of a Hispanic male with a tear-shaped mark underneath his left eye.
- No Hispanic male officers assigned to the warrant has blue eyes noted in their NYPD photo descriptions save PO Jose Camacho, who was § 87(2)(b) old and balding on the date of the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pled